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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/912,570	07/24/2001	Roberto DeLima	RSW9-2000-0124-US1	5486

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IBM CORPORATION
3039 CORNWALLIS RD.
DEPT. T81 / B503, PO BOX 12195
REASEARCH TRIANGLE PARK, NC 27709

EXAMINER

PHILLIPS, HASSAN A

ART UNIT	PAPER NUMBER
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2151

DATE MAILED: 12/04/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/912,570

Applicant(s)

DELIMA ET AL.

Examiner

Hassan Phillips

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 September 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-6,8-12,14 and 16-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-6,8-12,14 and 16-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

DETAILED ACTION

1. This action is in response to communications filed September 14, 2006.

Continued Examination Under 37 CFR 1.114

2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on September 14, 2006 has been entered.

Claim Objections

3. Claim 20 is objected to because of the following informalities: It appears claim 20 inadvertently depends on claim 1 when it should depend on claim 10 since claim 20 recites a product claim and claim 1 recites a method claim. In order to advance prosecution, examiner has interpreted claim 20 to depend on claim 10. Appropriate correction is required.

Response to Arguments

4. Applicant's arguments with respect to claims 1, 3-6, 8-12, 14, 16-24, have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 1,3-6, 8, 10-12, 17, 18, 21, 22, are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Romero et al. (hereinafter Romero), U.S. Patent Pub. No. 2002/0129127.

7. In considering claims 1, 10, and 12, Romero discloses a method, a computer readable product embodied on computer readable media readable by a computing device, and apparatus for configuring a load balancer (130) for dispatching client (100) requests amongst a plurality of servers (160-162), said method, computer readable product, and apparatus comprising: storing a configuration file (300) in a local memory of each one of said plurality of servers, each of said configuration files containing parameters (330) including variables to be applied for configuring a load balancing scheme for said plurality of servers, (pg. 4, par.'s 0031 and 0033); obtaining said configuration files from each of said plurality of servers, (pg. 4, par. 0031); and configuring said load balancer to dispatch client requests (110) among said plurality of

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servers based on a load balancing algorithm defined by said parameters including said variables obtained from said configuration files, (pg. 4, par. 0031).

8. In considering claims 3, 11, and 21, it is inherent in the teachings of Romero that each of said configuration files has a file path and name in accordance with a standard file path and naming protocol, (pg. 4, par. 0033).

9. In considering claims 4, 17, and 22, Romero discloses said parameters provided in at least one of said configuration files comprises content-based routing rules, (pg. 4, par. 0031).

10. In considering claim 5, it is inherent in the teachings of Romero that said content-based routing rules comprise a URL mask, (pg. 2, par. 0018).

11. In considering claims 6 and 18, Romero discloses said parameters of at least one configuration file comprise at least one of time-of-day rules, session affinity rules, cookie affinity rules, server health information and a link to said server health information, (pg. 4, par.'s 0031 and 0032).

12. In considering claim 8, Romero discloses said plurality of servers comprise a server farm (200) coupled to receive client requests via the Internet (120), (pg. 3, par. 0026).

Claim Rejections - 35 USC § 103

13. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

14. Claims 9, 14, 19, 23, are rejected under 35 U.S.C. 103(a) as being unpatentable over Romero.

15. In considering claim 9, although the teachings of Romero disclose substantial features of the claimed invention, they fail to expressly disclose: said configuration files are stored in one of an HTML or XML file format.

Nevertheless, Romero does disclose said plurality of servers may be HTML servers, (pg. 2, par. 0018).

Thus, it would have been readily apparent to one of ordinary skill in the art that the teachings of Romero provide a means for said configuration files to be stored in one of an HTML or XML file format. Storing said configuration files in one of an HTML or XML format would have advantageously and efficiently allowed the load balancer to obtain configuration files utilizing the same protocol that clients use to obtain content from the servers, (pg. 2, par. 0018).

16. In considering claims 14, 19, and 23, Romero further discloses polling each one of said plurality of servers for said configuration file pertaining to each of said servers, (pg. 4, par. 0031); and configuring the load balancing algorithm based on said parameters in said configuration files, (pg. 4, par. 0031).

Although the teachings of Romero disclose substantial features of the claimed invention, they fail to expressly disclose: initializing the load balancer by manually inputting the address information of each one of said plurality of servers, and validating each of said configuration files.

Nevertheless, Romero does disclose including the polling functionality at the load balancer, (pg. 2, par. 0016).

Thus, if not implicit in the teachings of Romero, it would have been readily apparent to one of ordinary skill in the art to modify the teachings of Romero to expressly disclose initializing the load balancer by manually inputting the address information of each one of said plurality of servers. This would have obviously disclosed one way of providing the load balancer the capability to poll the servers, (pg. 2, par. 0016, pg. 4, par. 0031). Further, if not implicit in the teachings of Romero, it would have been readily apparent to one of ordinary skill in the art that since Romero teaches polling each one of said plurality of servers for said configuration file pertaining to each of said servers, and configuring the load balancing algorithm based on said parameters in said configuration files, the teachings of Romero provide a means for validating each of said configuration files. This would have obviously made sure the

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configuration files were from an official source before utilizing the information in the files, (pg. 4, par. 0031).

17. Claims 16, 20, 24, are rejected under 35 U.S.C. 103(a) as being unpatentable over Romero in view of Reichmeyer et al. (hereinafter Reichmeyer), U.S. Patent 6,286,038.

18. In considering claims 16, 20, and 24, although the teachings of Romero disclose substantial features of the claimed invention, they fail to expressly disclose: storing configuration files provided by a server manufacturer.

Nevertheless, storing configuration files provided by a server manufacturer was well known in the art at the time of the present invention. This is evidenced by Reichmeyer, who, in an analogous art, discloses storing configuration files provided by a server manufacturer, (col. 3, lines 7-29).

Thus, if not implicit in the teachings of Romero, it would have been readily apparent to one of ordinary skill in the art to modify the teachings of Romero to disclose storing configuration files provided by a server manufacturer. This would have advantageously preconfigured the servers in cases where the installation environment was known, (Reichmeyer, col. 3, lines 7-29).

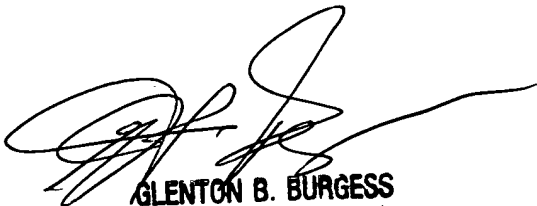
Conclusion

19. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hassan Phillips whose telephone number is 571-272-3940. The examiner can normally be reached on Mon-Fri (8am-5pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Zarni Maung can be reached on 571-272-3939. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

HP/
11/18/06



GLENTON B. BURGESS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100